

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

KINRAY, LLC,

Petitioner,

- v -

INDEX NO. 651519/14

ELISHA GABE and H.D. SMITH
WHOLESALE DRUG CO.,

Respondents.

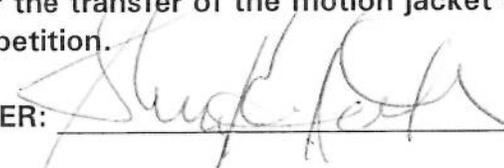
Administrative Order:

By letter dated May 23, 2014, respondents' counsel timely requests a transfer of this special proceeding from I.A.S. Part 47 (Wright, J.) to the Commercial Division. Petitioner's counsel advises that his client opposes a transfer.

Uniform Rule 202.70 (b) (1) provides that breach of contract actions arising out of business dealings, specifically referencing employment agreements, will be heard in the Commercial Division provided the \$500,000 monetary threshold for New York County is met or the action seeks declaratory or equitable relief. In addition, Uniform Rule 202.70 (b) (12) provides that applications for injunctive relief in aid of arbitration pursuant to CPLR Article 75 involving commercial issues will be heard in the Commercial Division without consideration of the monetary threshold. Thus, there is no question that this special proceeding, brought pursuant to CPLR 7502 (c) for an injunction in aid of arbitration to enforce a "Confidentiality And Non-Competition Agreement" against a former employee of the petitioner, makes it one that should be assigned to the Commercial Division.

Accordingly, the General Clerk's Office is directed to randomly reassign this case to the Commercial Division. The petition is presently returnable in Part 47 on June 12, 2014. Petitioner's counsel is directed to contact the part clerk of the newly assigned justice to arrange for the transfer of the motion jacket and re-scheduling of the return date of the petition.

Dated: May 28, 2014

ENTER:  A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION